

**APPELLANT'S CLOSING SUBMISSIONS**

**APPEAL BY HALLAM LAND MANAGEMENT LIMITED  
LAND AT JUNCTION WITH CARR ROAD AND HOLLIN BUSK LANE,  
SHEFFIELD**

**S78 TOWN & COUNTRY PLANNING ACT 1990**

**THE TOWN & COUNTRY PLANNING (INQUIRIES PROCEDURE)  
(ENGLAND) RULES 2000**

**PLANNING INSPECTORATE REF: APP/J4423/W/21/3267168**

**LOCAL AUTHORITY REF: 17/04673/OUT**

## Introduction

- 1 This appeal relates to land at the junction of Carr Road and Hollin Busk Lane, Sheffield ("the Site"). The Site comprises approximately 6.5 hectares of private agricultural land. Only some 2.52 ha of this is proposed for built development. The appeal is in outline save for access. It is not EIA development and no HRA is required. The Planning Inspectorate's letter dated 23 March 2021 reiterated this position, stating "*The development is relatively small in scale and there would be no likely significant effects in terms of noise, landscape and visual, water, contamination and pollution, flooding, traffic, ecology, or archaeology*".
- 2 The Application was subject to various stages of scrutiny by the Council and was recommended for approval twice, both when the Council thought there was and when the Council thought there was not a 5 year land supply. On both occasions there was no objection from landscape or heritage officers and the Council planning officers concluded permission should be granted. The most recent officer report<sup>1</sup> concluded that the tilted balance was engaged as the most important policies for determining the appeal were out of date, that the existing policy designations could be given limited weight on the basis of non-compliance with the NPPF and that the tilted balance was engaged, when the policies were considered as a "basket of policies".
- 3 The tilted balance was not felt to be disengaged by heritage considerations. Officers concluded that the harm to the setting of the nearby listed buildings was less than substantial and that their setting and character was preserved<sup>2</sup>, appropriately giving the harm considerable importance and weight<sup>3</sup>.
- 4 On landscape matters, officers agreed broadly with the LVA, having raised issues of additional

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<sup>1</sup> CD 1.7 page 94

<sup>2</sup> CD 1.7 page 53, 83

<sup>3</sup> CD 1.7 page 95

views<sup>4</sup> and having had these addressed<sup>5</sup>. The overall conclusion was that landscape impacts would be largely limited to the site itself, with limited wider effects and that visual impact would be limited by the restricted visibility of the site from the surrounding area<sup>6</sup>. Differences of opinion were described as minor and limited to a small number of matters at site level<sup>7</sup>. It was noted that many of the local impacts were related to residential amenity, a different matter to both heritage or landscape/visual effects<sup>8</sup> and that LR 5 was complied with, regardless of its reduced weight, along with NPPF 170. It was concluded that the visual and landscape effects did not go beyond the fact that the site itself would change and that whilst this change would be substantial, it did not go beyond that which would occur for the development of any greenfield site<sup>9</sup>.

- 5 On these matters the Appellant's position is broadly aligned and no clear reasons for departure from the position of officers has been articulated in the Council's case at this Inquiry.

### **Policy Context**

- 6 The importance of a plan led system is and has been for years, a fundamental part of plan making<sup>10</sup>. Yet despite this the Council has a woeful record of producing an up to date adopted plan.

- 7 The site along with the land that is now LR 5 of the UDP was excluded from the Green Belt in the 1980s, despite arguments for its inclusion at the time, with the Council arguing it needed longer term flexibility to meet future development needs and that Stocksbridge and Deepcar had already merged. The Council said that the value of the wider area of land was capable of being retained without it all being protected as Green Belt<sup>11</sup>. It was a draft allocation in the UDP, albeit with a gap, much smaller than that which will remain if the site is developed pursuant to this appeal. Its history shows that it was a good candidate for development at the right time. A

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<sup>4</sup> CD 2.10

<sup>5</sup> CD 1.7 at page 48

<sup>6</sup> CD 1.7 page 50

<sup>7</sup> CD 1.7 at page 51

<sup>8</sup> CD 1.7 at page 67/68

<sup>9</sup> CD 1.7 at page 67

<sup>10</sup> NPPF 15 for example

<sup>11</sup> RB Planning proof pages 17 and 18

subsequent appeal was refused in 1991, which almost certainly led to the change of position in the final UDP, but this appeal decision is now agreed to be of limited weight, due to changed circumstances, changed policy, being an appeal that dealt with the whole of the area, with a different relationship to its surroundings and different landscape effects to the appeal proposal<sup>12</sup>. Matters have moved on materially.

- 8 Since the UDP's adoption in 1998, there has been no plan based assessment of the continued relevance of the areas identified for development and those for protection across the city. This is despite the housing period of that plan expiring 20 years ago and the housing requirement being a small fraction of the current needs<sup>13</sup>. The Core Strategy in 2009 increased housing requirements, but the figure it was increased to is also agreed to be out of date<sup>14</sup> and there was never an allocations plan to address the increased requirements of that plan. The Council has tried and failed twice to produce up to date plans in 2013 and 2015 and these have been abandoned. The approach of the Council has been the antithesis of the plan led system that has been a central pillar of national policy for decades. The Council is nowhere near meeting its obligations under NPPF 33 to review plans every 5 years, a matter that itself goes to policies being out of date<sup>15</sup>.
- 9 This laissez faire approach to plan making has led to the significant problems the Council now faces; a massive predominance of apartments, largely for students in the city centre and immediately surrounding area<sup>16</sup>, a past and likely future lack of delivery of affordable housing that is acute and chronic by any measure<sup>17</sup>, no housing allocations to speak of (none are in the 5 year supply) and a desperate need for a new plan, with no interim means of meeting the Urban Uplift other than by granting permissions.
- 10 The emerging plan is of no weight, nor is its emerging evidence base<sup>18</sup>. It has a long way to go

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<sup>12</sup> SoCG at 5.1

<sup>13</sup> 37 % see RB 7.35 ( Planning Proof)

<sup>14</sup> SoCG at 6.32

<sup>15</sup> Northmoor appeal CD 5.34 at 19

<sup>16</sup> Housing RTS and Mr Bolton Appendix 1 – Planning Proof

<sup>17</sup> AC XX

<sup>18</sup> Planning SoCG at 6.70/71

before adoption and the Council has a dreadful track record of abandoned plans in the past<sup>19</sup>. Nonetheless the Issues and Options document highlights some key themes that recognise the problems ahead<sup>20</sup>. The Issues and Options document acknowledges<sup>21</sup>; the challenge to provide enough new homes; the predominance of recent student supply; the need to meet the needs of families; the need to provide for affordable housing and the need to avoid people leaving the District to Rotherham, North East Derbyshire and Barnsley to find places to live. It is also clear<sup>22</sup> that Green Belt release will be needed to address these problems (in line with the approach of the surrounding districts to enable them to meet their needs in their own plans<sup>23</sup>) in all but one of the scenarios considered. However the only non Green Belt release option is likely to involve yet more high rise apartment development in the City, public sector investment, public land acquisition and business relocations. In addition there is now in excess of 10,000 new dwellings to be accommodated to meet the Urban Uplift, with the very strong likelihood that there will have to be significant Green Belt releases as a consequence.

- 11 As any new plan will not provide a solution to these problems for some 2 ½ years at least, the only realistic solution in the meantime is to grant permission on non Green Belt land such as the Appeal site.
- 12 Whilst the HDT has been met to date, this has been very substantially, 75% or so, from building student properties and apartments in the city centre. There may already be the signs that this is not sustainable for the future, if recent completions for the last year are taken into account. Even though the completion Government figures may miss conversions, changes of use and cover only 3 quarters of a year, at 630 when the requirement is well over 2,000 dwellings per annum, there would appear already to be cause for concern.

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<sup>19</sup> Laura Stephens indeed alluded to the recent concerns expressed by Government in her XX.

<sup>20</sup> CD 3.6

<sup>21</sup> Ibid pages 25, 26

<sup>22</sup> Ibid pages 48 and 49

<sup>23</sup> RB at Housing RTS

## Approach to Decision Making

- 13 Whilst decisions have to be taken in the statutory framework of section 38(6), this specifically allows other material considerations to be taken into account. The NPPF is such a consideration, that is central to decision making. Whilst the statutory duty to have special regard to the desirability of preserving listed buildings and their setting must be followed, the approach of the NPPF allows this to be fully addressed in decision making.
- 14 The question of whether policies are out of date is to be taken in the round, considering a balanced judgement of all the most important policies for determination of the appeal<sup>24</sup>. The question of policies being out of date is however not the same as the weight to be given to those policies. Policies may be out of date, yet still as part of the development plan, be weighed in the decision making process. Ultimately to apply the approach in NPPF paragraph 11, a judgement needs to be made as to whether policies are out of date or not, not just what weight they are to be given.
- 15 It is common ground that policies are automatically out of date if there is no 5 year land supply. It is also clearly Mr Chapman's view that all the most important policies have only moderate weight, save for GE4, with CS22 having none (save for its requirement for a 5 year HLS). This was his view provided there is a 5 year land supply, with him acknowledging that without such a supply, not only would those policies be out of date, but also of further diminished weight as a consequence<sup>25</sup>.
- 16 In addition to a lack of 5 year land supply, policies can be out of date due to inconsistency with the NPPF and for other reasons such as where they have been overtaken by things that have happened since, on the ground, or for some other reason<sup>26</sup>.
- 17 On the question of consistency, Mr Chapman has reduced the weight to every most important

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<sup>24</sup> Wavendon Properties xxx

<sup>25</sup> AC XX

<sup>26</sup> Bloor Homes - See RB Planning Proof 9.20

policy save for GE4 and acknowledges that this is because of the degree of inconsistency; a level of inconsistency that is material enough to reduce the weight, therefore not trivial or insignificant<sup>27</sup>. In fact the Appellant contends that if the degree of inconsistency is such that the Framework and the local policy lead to a different outcome, this is a clear indication that the degree of inconsistency is high and the policy is not only out of date, but of little weight.

18 The Appellant's position is set out clearly in the evidence of Mr Bolton; that the most important policies for determining the appeal are out of date when considered as a basket. This takes into account a lack of NPPF consistency, policy being overtaken by events and a lack of 5 year land supply. He then says that the heritage issues do not provide a clear reason for refusal when applying the approach of NPPF 193, 194 and 196 because the harm is materially less than substantial and when given great weight, is outweighed by the benefits. On this basis the tilted balance is fully engaged. In that balance, the adverse impacts do not significantly and demonstrably outweigh the benefits and regardless of areas of Development Plan policy non-compliance, the appeal should be allowed. This approach is fully consistent with the statutory framework.

19 The Council's approach is in contrast, confused. It is written as acknowledged inconsistency leading to reduced weight, meaning the inconsistency must be material, but was explained in XX rather differently; that the policy should in effect be construed as though it was consistent with the NPPF so that compliance with NPPF (which of course is a document that has throughout an inherent balance) would amount to compliance with the development plan policies<sup>28</sup>. The Council's position is that the policies of the development plan effectively add nothing to determination of the appeal in terms of additional restriction; effectively that any inconsistency is of no consequence. Strictly that can't be right as the interpretation of policy is a legal matter and the terms of a policy are not fluid. The terms of policy cannot be adjusted to mean something else. However, as a concession it is very telling, as it acknowledges that if the NPPF is complied

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<sup>27</sup> AC XX

<sup>28</sup> AC XX

with, the degree of inconsistency between the NPPF and the development plan reduces the weight of the plan to such an extent that it has no further bearing on the outcome of the decision.

## **Main Issues**

### **Landscape**

20 The first main issue is the effect of the proposed development on the character and appearance of the surrounding area. There are a number of important areas of agreement in this respect. The SoCG<sup>29</sup> makes the following clear; only some 39 % of the site is for development on some 2.5 ha of land; there are no concerns from any party (including the Peak Park themselves) about impact on the National Park; the site contains no significant or unusual landscape features and whilst there are stone walls these are in varied condition; the site is influenced by the relationship it has to modern residential development at Carr Road and Royds Lane; it is not covered by any landscape designation (though there are such designations elsewhere); the site is not valued landscape in the context of the NPPF; the LVA is broadly in line with best practice, the reasons for saying broadly being the Council's points about the lack of montages and winter photographs; the number of receptors with high susceptibility and clear views of the site is comparatively limited and the LVA's 13 viewpoints are representative; the level of effects on highway users on Hollin Busk Lane/Carr Road and Cockshot Lane is as set out in the LVA; and in relation to views from the north at Don Hill Heights (K) and the Barnsley Boundary Walk (G), there are no greater than minor effects.

21 As set out above, the Council officers have, throughout consideration of the application, been in general agreement with the LVA and have reflected this in their consultation responses and in two committee reports. Any suggestion by Mr Ares to the contrary is not supported by reading the reports<sup>30</sup> or the consultation responses<sup>31</sup> which show that when there were questions raised in relation to views, they were responded to and the position agreed. No further views were sought

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<sup>29</sup> Landscape SoCG

<sup>30</sup> CD 1.5 and 1.7

<sup>31</sup> CD 2.10

and neither were additional photographs or images. Naturally photographs and images are only an aid to assessment and this is an application that was considered over several years and seasons, very thoroughly.

22 The LVA and Mr Denney's proof is thorough, detailed and in line with all guidance. The differences between officers and this work are described by those officers as minor and are inconsequential to the final outcome and recommendation<sup>32</sup>. The effects of the development will be localised and in a landscape that can accommodate the development proposed. The effects on views of any significance are also largely localised and not to be confused with residential amenity, in relation to which there is agreement<sup>33</sup>.

23 It is therefore necessary to see if Mr Ares' assessment of matters makes any change to the acceptability of the proposals concluded by FPCR, Mr Denney and the Council officers.

24 Firstly it is important to note that Mr Ares' analysis looks at the whole of the red edge of the site and not the area for development, as not shown in Mr Denney's Appendix 5 and his rebuttal.

25 Mr Ares has also overstated similarities with surrounding landscape, whilst failing to recognise that none of the immediate landscape is identified for its landscape quality. He also does this in a one sided assessment of the site; looking only to its relationship with other landscape and not paying proper account of the site's urban influences.

26 The site is not recognised as having landscape quality in any document, plan or policy and it would be wrong to suggest that LR 5 or CS72 make any difference to that. They are policies that relate to protection of land as countryside, not because of its landscape quality. In addition, the nearby Green Belt is not a landscape designation. Although Mr Ares also refers to the local

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<sup>32</sup> See BD Appendix 4

<sup>33</sup> Planning SoCG 6.30/31

character assessment<sup>34</sup>, it is clear this is a descriptive document that consciously avoids making any assessment of landscape quality<sup>35</sup>.

- 27 Despite the lack of landscape quality designation, Mr Ares presses on to assess landscape value. His approach is one of finding the landscape to be the highest value in each category of assessment and lacks reliability. His conclusion as to landscape quality is essentially that it is reasonably typical of other land in the area and not denuded. This reductionist approach would lead to many areas of land being capable of being called of high value when they are merely typical of other landscape that is not. He then goes on to "turn the dial up to the max" for representativeness (for similar reasons) and overstates the site's recreational value and wildness.
- 28 Having already agreed that there are no landscape designations affecting the site and that it is not valued landscape, Mr Ares' departure from the Council officers and Mr Denney's position stretches credibility.
- 29 Mr Ares made his main visual argument about views from Hunshelf Bank to the north of the valley. He has confused landscape character effects and visual effects in doing so. He also tries to make a point about settlement separation when viewed from this location, but as his own photographs show, the remaining undeveloped land between the appeal proposal and the built area around Hollin Busk is huge when viewed from the north.
- 30 There is in reality little difference between the representative views from Hunshelf Bank, set out in the LVA and assessed in detail<sup>36</sup> and the additional views from the other parts of Hunshelf Bank identified by Mr Ares. From the LVA assessed views, the proposal is agreed as having no more than a minor effect<sup>37</sup>. The LVA views include higher level views as well as from the level of the Boundary Walk and the landscape officer was content with the outcome and thoroughness

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<sup>34</sup> CD 7.2

<sup>35</sup> Ibid pages 7,12,13

<sup>36</sup> See original LVA at 8.2, 8.15 and the tables of views that look at view G and K in particular

<sup>37</sup> Landscape SoCG

of the assessment. The assessment from your site visit will of course be the most telling in terms of effects on views, landscape and separation of built areas from this location.

31 The visual effects of the scheme from the receptors that are closest to the site are clearly more significant and in that respect to be expected for the development of any greenfield site, where change at close quarters is inevitable. The same applies to changes to the landscape of the fields themselves; the fields that make up a site will always be lost in any greenfield development. However, it is important to not elide landscape and visual changes with residential amenity, an agreed matter, with residents not having a right to a view or one that remains unchanged. The views of pedestrians from the pavements of surrounding roads is also very different to those from walkers on a countryside path where the experience and purpose is very different. Here that is particularly the case because of the use of the roads by vehicles alongside pedestrians, the views of existing properties from these roads and street lighting. These pavements may well form part of the start and the end of a countryside walk for some local residents, but it will often be the case that for most, such a walk involves passing houses first.

32 Mr Ares put a great deal of effort into arguing about winter photographs and montages. However, this is symptomatic of how little he has had to say about the accuracy of the LVA. Apart from the fact these matters were never asked for by the Council, they have now been produced and in any event, there is relatively little difference between winter and summer views. The 1<sup>st</sup> montage shows that in a view that already has clear visibility of houses on Carr Road, with the scheme in place houses will be a little closer. The overall composition of the view is unchanged and the distance to those houses is still considerable with a clear and apparent green foreground of fields. The same is apparent from the 2<sup>nd</sup> montage, though noting the view is to one side of a path from a point where the straight ahead view and that to the left is of other housing, materially closer. For the 3<sup>rd</sup> montage view similar comments apply. Whilst noting this is from a road without footways and that the view point is one that for most, will be passed quickly, a significant area of green fields will remain between the development and Hollin Busk and the context from this view point also provides a panorama of built development, further up the valley side to the left of the viewer.

- 33 The issue of separation was dealt with remarkably briefly by Mr Ares in his proof. There are some important contextual points. First, Deepcar and Stocksbridge have clearly merged some time ago. Indeed as pointed out by Mr Denney<sup>38</sup> the local online archive explains that Stocksbridge blends into the areas of both Deepcar and Bolsterstone. It is also apparent from as long ago as the 1980 Green Belt Plan, that the Council felt it was too late to stop the merger of Deepcar and Stocksbridge and that the value the wider area of land could be retained without the whole area being Green Belt<sup>39</sup>.
- 34 Further analysis of this is set out as a visual assessment of the "journey" along Hollin Busk Lane in both directions in Mr Denney's Appendix 3, where he examines the fact that at the point one sees the site, there is also clear visibility of houses across the fields that are to be left open and that the sense of arrival or departure is little changed by the proposals. Mr Bolton also points out that on factors such as the reduction in distance, inter-visibility, mitigation and sense of arrival, the proposal will have limited and acceptable effects, with the built part of the proposal amounting to just 6 % of the wider area and the reduction in distance being 10% or at most 25% depending on how it is measured<sup>40</sup>.
- 35 In terms of mitigation, the Appeal proposals have evolved sympathetically, essentially to allow greater standoff from the Listed Buildings at Royds farm and to allow retention of stone walls and provide ecological enhancements. These are for amenity reasons and to address those few characteristics of the site itself that are of more importance. They respond to the encouragement from officers and from a heritage point of view are in line with step 4 of the Historic England Guidance.

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<sup>38</sup> BD proof 7.28

<sup>39</sup> RB planning proof at 4.4

<sup>40</sup> RB Planning Proof at 11.45/46

## Heritage

- 36 Mr Bourn's evidence on Heritage matters is to be commended. It is in line with that of officers of the Council and is very thorough. He concludes that there are less than substantial harms, at the lower end of that scale. His evidence builds on matters of agreement<sup>41</sup> which are; that the site is beyond the setting of the barn east of the Royd; there are no physical effects on the two sets of listed buildings at Royds Farm and farm buildings; that the significance of those buildings resides primarily within the architectural and historic character of those buildings, as well as being part of a former hillside hamlet of Royd; that the conversion of the barns to residential has reduced their significance.
- 37 Mr Bourn points out that it is not a question of harm to the setting because setting is not the asset, but harm to the significance of the buildings, by virtue of the change of setting. This is significant, particularly as Mrs Masood's assessment concludes that the harm is substantial but apparently does so by considering the change to the setting alone. She has not approached the matter in the proper way.
- 38 The test of substantial harm is clearly a high one. NPPG 18a- 018 makes clear that it will not arise in many cases. It further advises that it is important to consider whether there are adverse impacts that *seriously affect key elements* of the building's special architecture or historic interest. The Nuon case<sup>42</sup> addresses the language of the NPPF on substantial harm, albeit from the 2012 NPPF. This case found that an Inspector had lawfully concluded on the question of substantial harm with the Court saying that for harm to be substantial, the impact on significance was required to be serious such that very much all, if not all, of the significance was drained away. The Court continued; "*One was looking for an impact which would have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced*".

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<sup>41</sup> Heritage SoCG

<sup>42</sup> CD 5.5 at 24 and 25

39 The Bramshill case<sup>43</sup> does not change the agreed approach to the application of policy in this case<sup>44</sup>. The Framework's approach in section 16 is to be applied, a balance of harms and benefits needs to be made and the outcome of that balance is the critical judgement. If the balance is in favour of the proposal, as the Appellants say, then the local policies of LR5 e and BE 15 and 19, which don't allow for that balance, are out of date. Mr Chapman ascribes only modest weight to those policies in any event. It is the Appellant's case that these development plan policies have only limited weight as they lead to an entirely different outcome to that of the Framework. The outcome of the Framework's approach properly and consistently allows the statutory duty to be applied and met; one of paying special regard to the desirability of preserving the buildings or their setting. If the approach in the Framework is applied and this results in no clear reason for refusal, then the local policies cannot sensibly or reasonably be given much weight.

40 It is critical in this case to recognise that the setting is not uniform. As explained by Mr Bourn, there is the immediate setting of the buildings derived from their gardens, the courtyard and the relationship the barns have with the farmhouse. The next layer of setting is the relationship with the buildings fronting to Carr Road and the other older buildings of the former hamlet of Royd. None of this most important part of setting is affected by the proposals. The Appeal site affects only a subsidiary aspect of the setting. It is to the rear of the buildings and plays a lesser role in their significance. From further afield, views of the buildings are much less distinct in terms of appreciation of their history, architecture or other significance.

41 Alongside this it is important to note that even the immediate setting has been much changed, with gardens replacing a more functional farm yard and gardens. The pigsties are one of the obvious example of this. They now appear as part of a well-tended garden, rather than a muddy yard with animals. The barns and their surroundings has also changed significantly, not just in terms of their function and role, including the land around them, but also in terms of windows and openings and the functional purpose of those openings.

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<sup>43</sup> CD 5.7- particularly at paras 87 and 88

<sup>44</sup> AC XX

- 42 Some of the Council's case on setting is based around views from the buildings. However in that regard there has been a tendency to elide residential amenity issues with heritage significance.
- 43 In contrast to the clarity of Mr Bourn's position, the Council's case is rather confused;
- i. Mrs Masood places great emphasis on the history of the fields. Her case depends on the landscape being Assarted Enclosure. However, she is in error in this respect<sup>45</sup>. This materially undermines her position. The fields are of a similar age to the listed buildings, but that is in common with much of the land that has been developed in the area.
  - ii. Mrs Masood accepts<sup>46</sup>, in line with the SoCG<sup>47</sup> that the historic interest of the buildings primarily comes from the age of the buildings themselves as examples of a farmhouse and barns, with this historic interest being reinforced by the layout of the farmhouse relative to the barns. She only then refers to the fields behind them. However, other parts of her proof contradict this by placing such significance on the Appeal site as to suggest that the significance of the buildings derives more from the fields than the buildings themselves. With respect that cannot be right.
  - iii. She then uses the BS in an entirely partial way, to assess the magnitude of impact. Her assessment is clearly referring to the change to the setting and not the effect on the significance of the buildings. This is typified by her proof at 6.11 and 6.13 in which she only analyses change to setting and not the significance of the buildings.
  - iv. Finally, when making her conclusions as to the effects of the proposals, she relies almost entirely on the views of the listed buildings from Carr Road, having said that the listed buildings can be seen and their architecture appreciated from there<sup>48</sup>. Whilst a matter for judgement, it cannot be said that the Appeal proposals will make any material difference to the views or appreciation of the listed buildings from Carr Road either approaching from the

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<sup>45</sup> RB Rebuttal

<sup>46</sup> Proof 4.14

<sup>47</sup> Landscape SoCG at 1.10

<sup>48</sup> Having down played the importance of their architecture earlier in her proof at 4.14 and 6.3 of her proof

north or south, where the buildings are virtually unseen until one is upon them due to existing buildings or landscape screening.

44 There is a specific requirement of the HE Guidance<sup>49</sup> that attempts are made to minimise harms. The Council's heritage consultation response sought this. It is in that context that further steps have been made to adjust the parameter plans to achieve a better set back and allow a better appreciation of the listed buildings from the site. This also allows a sensitive landscape boundary treatment, not to screen but to soften the edges of the development, consistent with the existing shelter belt<sup>50</sup>. This also provides greater residential amenity to be achieved in terms of views out from the development which can be amply understood on Mr Bourn's appendices 23, 24, 25 and 26.

45 Overall, the Appellant is clear that the harm is considerably less than substantial, that it leaves the significance of the listed buildings affected to a relatively modest degree and that the appropriate test is that of 196 of the Framework, with harms being at the lower end of the scale of less than significant.

### **Housing land supply**

46 There are two areas that make a significant difference between the party's positions, in addition to looking at the individual sites in the supply. The first is using the correct requirement figure and the second, the principle of inclusion of student supply if, as here, the Council is unable to evidence the extent to which student growth was factored into requirement and what the actual growth of the student population will be.

47 On the first point, the PPG has always been the document through which calculation of the Standard Method (SM) has been determined. It was amended in December 2020. There was a transition period that has now expired and the terms of the PPG are unequivocal. The

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<sup>49</sup> Step 4

<sup>50</sup> Acknowledged by Mrs Masood at 5.1 of here proof

effect is to reduce the only supply the Council relies upon<sup>51</sup> to 3.95 years. The transition period in which the old SM can be used is categorically until 16 June 2021. Until that date the old SM without the Urban Uplift can be applied and after that date it cannot. There is no equivocation in the guidance<sup>52</sup> and the Council relies on no other guidance or decisions to suggest otherwise. The period has passed, the Council have had notice of this and there is no updated supply. It isn't a matter of reasonableness, discretion or judgement; it is clear and absolute. It isn't a matter of judging if the Council has acted swiftly enough or acted reasonably; it is simply what the Guidance says.

48 The transitional arrangements are different for the HDT, clearly and obviously so and the HDT is simply not the matter in question at this Appeal.

49 To accept the Council's argument at this Inquiry would be to allow not just this Council, but every other Council to which the Urban Uplift applies, the ability to avoid the clearly stated transitional arrangements until they update their supply side assessment. That may be up to March of next year; 15 months after December 2020, not just 6 months. That would have far reaching consequences and could not be remotely consistent with the obligation to boost the delivery of housing. Such an interpretation would place more than a "gloss" on the Guidance, it would be a decision to consciously rewrite it, without authority from the Secretary of State or proper justification. There has of course been no legal challenge to the Guidance and none could now be made<sup>53</sup>.

50 It is also important to note that the supply and the requirement side of the equation are independent matters, as noted by Inspector Clark in Poplar Hill<sup>54</sup>. The Supply is the outcome of an assessment and judgement and is to be conducted annually. The requirement is determined by the PPG. It is a calculation from a set formula. The outcome of it is pre-determined in each area. The SM deliberately provides certainty as to what the requirement is. It's calculation is not

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<sup>51</sup> It is common ground that it is for the Council to demonstrate a 5 year supply, not the Appellant- NPPF fn 7

<sup>52</sup> L S XX

<sup>53</sup> The period for going to Court would have been 6 weeks from December for Judicial Review

<sup>54</sup> CD 5.37 at 54, 55

a matter of judgement. Its outcome is easily known. Here as a matter of fact we can see exactly what the current year is, it is 2021. The outcome of Step 1 is clear. As Mr Clark puts it there is no basis in the Guidance for making an adjustment to the base year of the supply. We can also see the latest affordability ratios and can apply them. There is no basis in the Guidance to do anything other than to apply them now. If the Council feels the up to date and current requirement should not be applied to its supply, the answer is not that the application of the requirement is to be avoided or delayed, but that the supply is not up to date and the Council cannot demonstrate a 5 year supply. Further, the notion that the increased requirement from the Urban Uplift may not apply in Deepcar is groundless. There is no hint of any mechanism or means by which the Uplift could be reduced to take account of the geography of Sheffield or any other city. There is no hint of any means or mechanism for having a different sub area requirement from the SM. The requirements for 5 year land supplies are always district or borough wide<sup>55</sup>. Here it is clear that the surrounding districts are busy releasing or have released Green Belt to meet their needs, not those of Sheffield and in any event Stocksbridge and Deepcar is an identified urban area in the Core Strategy<sup>56</sup>, and the delivery of housing adjoining it (which it is agreed the Appeal site does<sup>57</sup>) is encouraged.

51 Not only did the Poplar Hill decision deal with arguments about using the latest affordability data and the current year for steps 1 and 2, but it also looked at the more general point about using an earlier supply, from an earlier base date, against an up to date requirement. It found that there was an inevitability of different vintages of supply and requirement. There was found to be no concern with using the current requirement and an older supply. Similarly, as Mr Bolton points out, the Secretary of State is very used to comparing the most up to date requirement from the former Standard Method, even when the supply was from a year or in some cases two years earlier<sup>58</sup>.

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<sup>55</sup> At least in the absence of any up to date local policy mechanism

<sup>56</sup> CS23

<sup>57</sup> See Planning SoCG 6.40 and AC XX

<sup>58</sup> See RB Land Supply Proof 2.43 and CD 5.24, 5.25 and 5.26

52 Notwithstanding all this, Mr Bolton has gone further to show that, even if there was to be an update of the supply to 2021, being the most generous he can be to the Council's case, assuming all new supply is deliverable, taking very low completion figures off the supply and making no reductions for the sites he has doubts about (including no reduction for student units in the supply) the Council will still not be able to show a 5 year land supply. Indeed, given the 6 months' notice, one might think that if there was any real basis for showing the opposite, the Council would have already moved heaven and earth to show that.

53 The other main area of dispute is in relation to the principle of whether student units count. They amount to some 23% of the claimed supply (2,763 units) and have all been included by the Council, on the basis that the PPG<sup>59</sup> says they "*should count because*" they release housing<sup>60</sup>. It was however accepted that this formulation of the Guidance is not accurate<sup>61</sup>. There is clear conditionality to the Guidance. Student units can count, based on the amount of market housing released for that purpose or allowed to remain in such use. Both scenarios depend on the growth of student housing needs not exceeding the new student provision. However, the Council simply does not have any notion of the future student needs, growth or indeed what rate of growth, if any that was assumed in the 2014 Household Projections that underpin the SM. It is simply unable to show why the student units should count and if indeed any of them do. In this regard the position is remarkably similar to the appeal decision at Winsford<sup>62</sup>, where the Inspector and the Secretary of State excluded student supply for similar reasons, with the SoS doing so after the change to the PPG, which in fact makes little difference to the point.

54 This matter is a gateway point. One only gets to the question of the ratio of types of accommodation counting in any particular proportion, if they count at all. The 1:1 comment about wholly independent student studio flat accommodation could not be read as negating the

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<sup>59</sup> NPPG 68-034

<sup>60</sup> LS proof at 3.16

<sup>61</sup> LS XX where it was agreed to amend the text of the proof

<sup>62</sup> CD 5.10

opening part of the paragraph of the Guidance. In any event the level of evidence as to what is and is not a fully independent flat is not apparent and one flat for one person is very unlikely to free up an HMO that had 6 or 8 students in it.

55 For the Category A and B sites, you will have to consider the detailed evidence. For Category A sites, the evidence is based on what was known or could have been known at the supply base date<sup>63</sup> and whilst the burden falls on the Appellant to show clear evidence of non-delivery, this includes considering sites being available, and achievable with a realistic prospect that housing will be delivered, taking account of such matters as viability and demand, with permissions no longer being considered deliverable once permission is expired. The Appellant's case is that for the identified Category A sites, non-delivery was known, or could have been known at the base date. This isn't judged by the reasonableness of the Council's enquiries at the time (though several pieces of evidence were already on the planning register), but the clarity of the evidence before you now.

56 For Category B sites, it is to be noted that none of those in dispute have planning permission. The Council's evidence in every case is to be found in proformas from just two parties who Mr Bolton explains have every reason to be optimistic, given it is their job, as to the delivery of these sites. These proformas all postdate the base date and all show a series of matters for concern as to delivery. There are two categories of site; the Sheffield Housing Group sites and the Stock Increase Programme sites. For each of the SHG sites the proformas confirm that funding is needed and has not been secured. For the SIP sites there is either a lack of confirmation as to approval through the Councils' capital funding programme or a statement about further funding from Homes England being explored. When the details of the proformas are investigated further, there are a series of reasons for doubt as to delivery and these amount to either or all of the following; slippage on planning applications, unknowns as to infrastructure or doubts as to viability. For these 809 units in Category B there is no clear evidence of delivery and they should be discounted.

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<sup>63</sup> A formulation as set out in LS proof at 3.17

57 When all these matters are taken into account, the number of years' worth of supply is as follows;

- Applying the Urban Uplift- 3.95 years
- Removing Students as well- 3.25 years
- Removing category B sites as well- 2.99 years
- Removing category A sites as well – 2.56 years
- If only category A and B are removed and not Students - 3.26 years

### **Other Housing Matters**

58 Though unrelated to the question of 5 year land supply, it is now common ground that there is a massive imbalance of the types of past and future supply against housing needs. The past 5 years has seen some three quarters of completions being in the form apartments and student properties, in the city centre and immediately adjoining areas. The future 5 years supply is almost exactly the same. This is when the need is for 80% housing. There is a fundamental mismatch of supply and demand. There is nowhere near enough family housing and there hasn't been for years. To suggest that the answer is in the stock of existing and already occupied homes, is missing the point. These are occupied, unavailable apart from when they come up for sale and even then will result in family homes being traded up for larger family homes with the ultimate release of family homes only arising on death or downsizing. To down size from a family home with a garden to a city apartment seems highly implausible.

59 There are similar stresses in terms of affordable housing, both district wide and at a local level. The position is both acute and chronic and without any short term response possible, other than building more houses and capturing affordable provision in places where it applies (not in the

city centre). The future supply of affordable housing is as poor as past delivery and the figures in Mr Stacey's evidence are unchallenged. Past undersupply is some 3,638 and future 5 year delivery is less than 1.5 years' worth over the next 5 years. Locally, past supply has been just 3 units (excluding 25 units exclusively for older people) and the anticipated shortfall is 54 dwellings every year. The waiting list across the city is huge at some 32,000 and has increased by over 8,000 units in the last year alone. This is an affordable housing crisis by any measure.

60 Further, contrary to suggestions from Councillor Crowther, there is no sufficiency of local supply of market housing either. There are brownfield sites, the rate and timing of delivery of these is however uncertain and even when all are taken into account, they fail by some measure to meet even the 10% for Stocksbridge and Deepcar indicated by the terms of CS23.

## **Policies**

61 Before turning to the individual policies, it is relevant to consider the datedness of the delineation of the areas identified in the UDP proposals map for development and for protection. That delineation was set in the context of development needs that are a fraction of those that currently apply and from a housing point of view were only designed to meet needs until 2001. They do not allow for boosting supply or even meeting the current requirement. They will inevitably need to change and soon. The policies for protection are a counterpart of those to provide for needs. The approach of various other appeal Inspectors has found such maps to be out of date<sup>64</sup>. The ability for the development plan to meet needs has been overtaken by events and new needs. The Core Strategy has no map whatsoever and makes no allocations. There are no follow on allocations to the Core Strategy, contrary to NPPF 23. There has been no effort to review the plan every 5 years, contrary to NPPF 33. There is nothing like an up to date plan that meets current needs or balances these needs against the land that is truly needed to be protected, when provision for meeting those needs has been taken into account.

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<sup>64</sup> See RB Planning Proof pages 42- 47 and CD5.34 (16 and 19) CD 5.28 (19,20,22,23), CD 5.29 (4) CD 5.30 ( 80, 82) CD 5.31 (75,77, 79) CD 5.32 (12) CD 5.26 ( SoS 14, IR 263, 264, 270) and CD 5.33 (7, 17, 18, 19)

62 It is in this context that we can consider all the individual policies and whether their terms are up to date, as well as what weight should be applied;

- **GE4-** The policy deals with the visual effects on the Green Belt from development that is not in it. It requires judgement as to its compliance. The issues are whether the scale and character of new development is conspicuous, not merely visible, from the Green Belt and if so in keeping with the area as a whole<sup>65</sup>. However this policy reflects PPG2 and not the NPPF that has no similar approach and it is out of date. The Green Belt is protected for *its* openness and the site does not affect this. NPPF 141 does not come close to addressing harm to the visual amenity of the Green Belt from development beyond it. It is about enhancing the use of the Green Belt itself and Mr Chapman could suggest no way in which the appeal undermines this. NPPF 127 c is about design, not Green Belt. It seeks sympathy to character (built and landscape). It doesn't seek to prevent change. NPPF 170 b is not a Green Belt policy either. It seeks to recognise (take account of) countryside in the context of the NPPF seeking an overall balance. GE4 is inconsistent with the NPPF and is out of date. It carries little weight. It is insufficient to say that it has similar themes (even if it did) as the acid test is whether the outcome of its application is the same as the NPPF and it is not.
- **LR5- i and j-** These parts of the policy deal with the avoidance of any harm to the character of the countryside. The Council accepts modest weight, clearly a recognition that the policy is inconsistent with NPPF to a material degree and out of date in that respect. It is agreed it is not an open space policy in the sense meant by the Framework, indeed it is agreed that the open space policies of the Framework are met<sup>66</sup>. The Council has allowed development in LR5 areas in the past and taken a balanced view of its application. Nonetheless LR5 i and j are drafted as a strict bar on development such that any harm would lead to refusal. That is not consistent with NPPF and the Council is right to recognise this. The policies do not align with the approach of NPPF 127 c and 170 b. That they may tackle similar themes is nothing to the point. If the

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<sup>65</sup> AC XX

<sup>66</sup> SoCG Planning 6.7 and 6.80

application of NPPF and LR5 lead to different outcomes as here, this highlights that the inconsistency goes to the root of decision making. The policy is fundamentally out of date and should carry little weight.

- **CS 47-** This is an open space policy, similar to the protection of NPPF open space, when it is agreed that the site is not open space in the sense meant by NPPF. For similar reasons it does not meet the terms of the CS's own definition of open space at page 91. It meets none of the descriptions of open space. It is not accessible or with rights of way across it. Conflict with this policy is not a reason for refusal policy, nor is it in the Councils SoC. The officer report was clear it didn't apply<sup>67</sup>.
- **CS72-** Deals with the protection of countryside from all development. The Council give this policy modest weight, again recognising its inconsistency with the NPPF. There is no map to define what it applies to. The Plan that would have clarified this is absent and 12.9 of the CS<sup>68</sup> say that protection *will be* achieved in a document that was never produced. It applies an absolute protection, greater even than Green Belt and there is no basis for that in NPPF. It is very far removed from NPPF 127 c and 170 b. In any event the amount of development needed was clearly a factor for its justification<sup>69</sup> and it is common ground that the CS housing needs are now out of date<sup>70</sup>.
- **CS23** – Is a policy that seeks a spatial approach to distribution of housing. The Council acknowledges its relationship to CS 22 and accepts it is not fully up to date, giving it modest weight<sup>71</sup>. It is also agreed that the site adjoins Deepcar (indeed Mr Bolton says it is in the urban areas as described by the CS) and could conform to the strategy save the question as to whether the site is suitable and the inference to CS72. This policy is out of date for the reasons set out above. The locational proportions of development (90% Sheffield and 10% Deepcar and

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<sup>67</sup> CD 1.7 at 57

<sup>68</sup> As well as Appendix 1 at 169 of the CS

<sup>69</sup> CS 12.8

<sup>70</sup> SoCG Planning 6.32

<sup>71</sup> SoCG Planning 6.36- 6.43

Stocksbridge) are not breached by the proposal. To the extent there is any conflict with it at all (which is not accepted) it does not introduce an additional issue to the out of date CS72.

- **CS 24-** This policy as well as CS33 in effect introduces a ban on greenfield development outside certain areas, unless there is no 5 year land supply. The Appellant say there is no 5 year supply and so that is the end of the matter. However, in any event it is agreed that the 12% greenfield limit set by the policy has not been and will not be breached by the appeal proposal<sup>72</sup> and the notion of a ban on greenfield development is wholly inconsistent with NPPF. The Council refers to NPPF 8 c, though the balance of matters in paragraph 8 must also address 8 a; ensuring sufficient land is available of the right type, in the right places, to support growth and 8 b, ensuring sufficient range and number of homes are provided to meet the needs of present and future generations. The Council's reliance on 117 and 118 c of NPPF is admittedly now<sup>73</sup> not an attempt to suggest that there is a sequential approach to greenfield development or a ban on greenfield development. The Council's argument is simply that the benefits of greenfield development may be less than brownfield development. This is not a matter against development of the site and the NPPF and CS24 are in significant conflict. CS 24 is out of date and of little weight. CS 33 is now agreed to be a policy that is not most important. It limits development to brownfield development only and is completely contrary to the NPPF in that respect. It is out of date and of little weight.
- **LR 5 e and BE15 and 19-** These policies are essentially dealt with above. They allow for no balance of harms and benefits, the Council accepts their weight is modest as a consequence and the degree of conflict is therefore material enough to reduce weight even on the Council's assessment. The outcome of properly applying NPPF to these topics effectively determines the extent of conflict and limited weight, as it results in a different outcome in this case.

63 As indicated above, the real test for whether policies are out of date and of limited weight is whether their application leads to a different outcome. Here, the application of the policies in the

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<sup>72</sup> SoCG Planning 6.47

<sup>73</sup> AC XX

development plan, that are most important, does lead to a different outcome to the NPPF and they are therefore clearly out of date. They are also to be given limited weight. The effect of this is that, as agreed in cross examination, a determination in line with the policies of the Framework and the balance they provide, provides the practical touchstone as to the right outcome in this case, notwithstanding the correct legal approach is to start with the development plan and then consider other material considerations.

### **Other matters**

64 Though not reasons for refusal, third parties (including the Friends of Hollins Busk) have raised issues relating to highways and transportation; ecology; flood risk and drainage; and the overall sustainability of the appeal proposal. In addition to the supporting documentation and submitted evidence<sup>74</sup>, the Appellant relies upon the content and conclusions of the topic specific statements of common ground, agreed with the Council.

65 The SOCG<sup>75</sup> on Highways and Transportation provides details of site context; vehicular access; and road safety. It confirms that the Site is "located adjacent to established residential areas"<sup>76</sup>; "has acceptable access to public transport services that are sufficiently frequent and attractive in terms of timetable and destination"<sup>77</sup>; and overall is "sufficiently accessible and sustainable for residential use"<sup>78</sup>. On the basis of detailed analysis<sup>79</sup> (including proposed improvement measures

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<sup>74</sup> The Appellant provided its witnesses for examination and on that basis full weight should be attributed to their evidence.

<sup>75</sup> CD6.10

<sup>76</sup> Paragraph 2.12

<sup>77</sup> Paragraph 2.23

<sup>78</sup> Paragraph 2.12

<sup>79</sup> Paragraph 2.1 of the SOCG on Highways notes that the Transport Assessment dated June 2017 "is robust and comprehensive and its content and conclusions are agreed. It is sufficiently up to date and its approach is in line with all relevant standards and guidance". Mr Irwin's PoE provides further updates undertaken in preparation for the appeal which corroborate the conclusions in the TA of the acceptability of the proposed development in terms of highway and transportation matters (CD 6.20a eg Paras 4.52 – 4.56 and section 7)

at the Carr Road; Manchester Road; Vaughton Hill junctions)<sup>80</sup>, it is agreed with the Council that the development would not result in unacceptable highway safety or traffic impacts.

66 The Ecology SOCG<sup>81</sup> refers to the range of ecological surveys of the Site and its surrounds<sup>82</sup>. It notes they have been undertaken in accordance with standard methodologies<sup>83</sup> and are agreed to be comprehensive and up to date<sup>84</sup>. Further, the SOCG confirms<sup>85</sup> that an HRA screening assessment has been appropriately carried out. The Council agree that the proposal complies with relevant legislation and policy and that "there are no ecological based reasons which would result in a reason to withhold planning permission"<sup>86</sup>. The SOCG is to be read in conjunction with Mr Goodman's proof of evidence, which references updated ecological update work, produced in preparation for the appeal, which corroborates the conclusions referenced in the SOCG.<sup>87</sup> He concludes<sup>88</sup> that the proposed development would protect and enhance the biodiversity of the Site and surrounds leading to "significant" overall net gains.

67 The Flood Risk and Drainage Statement of Common Ground<sup>89</sup> refers to the original FRA report<sup>90</sup> and the scheme's proposals for addressing flood risk and drainage issues<sup>91</sup>. The latter includes the provision of a SuDS detention basin on site, to attenuate surface water flows and provide source control. The SOCG records that the Council (as Lead Local Flood Authority) and the relevant statutory consultees (Yorkshire Water) have confirmed that the approach to flood risk and

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<sup>80</sup> Improvements to MOVA – see paragraph 2.28 of the Highways SOCG (CD 6.10) provided through the s.106 planning obligation, which also provides contributions for upgrading the bus stops to improve the facilities for public transport users (paragraph 2.22 of the SOCG) (existing and from the proposed development).

<sup>81</sup> CD 6.11

<sup>82</sup> i.e. Fox Glen as relevant

<sup>83</sup> Paragraph 2.2 of the Ecology SOCG, CD 6.11

<sup>84</sup> Paragraph 2.5

<sup>85</sup> Paragraph 2.7 – 2.14

<sup>86</sup> Paragraph 3.2

<sup>87</sup> See Paragraph 2.12 of Mr Goodman's PoE (CD6.21) and appendices (List of surveys at Appendix 2)

<sup>88</sup> Paragraph 10.8 of Goodman PoE CD 6.21

<sup>89</sup> CD6.12

<sup>90</sup> CD1.19

<sup>91</sup> Mr Harvey provides updates to the FRA as necessary in his evidence, including accounting for increased climate change allowance.

drainage (foul<sup>92</sup>) is acceptable. Mr Harvey's evidence addresses issues raised by third parties<sup>93</sup> and concludes that subject to the implementation of the proposed mitigation measures, flood risk from all sources and drainage would be appropriately mitigated.

68 Mr Bolton's planning policy evidence relies on the above. He addresses these issues at Section 12 of his Proof<sup>94</sup>, as well as matters relating to infrastructure, (schools; dental services; doctors; etc), referring to the CIL contributions arising from the development and the associated section 106 planning obligation. Overall, his evidence is clear, that these matters are no impediment to the grant of planning permission.

## **Benefits**

69 In the context of the above, the following benefits arise from the approval of permission;

- The provision of housing. This is a substantial benefit whether there is a 5 year land supply or not in the context of the need to boost supply and the Urban Uplift. It is all the more important because there is no 5 year supply.
- Provision of family housing in the district and to local area. This is a substantial benefit regardless of the land supply position as accepted by the SoS in the Worsely case in similar circumstances<sup>95</sup>. The current position is a product of an absence of an up to date plan.
- The provision of affordable housing is a substantial benefit, independent of the 5 year land supply. The current and likely future position is chronic and acute. There is an affordable

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<sup>92</sup> Para 2.18 of CD 6.12 states that the existing network has sufficient capacity to accommodate the domestic flows which would be generated by the proposed development.

<sup>93</sup> Which include it being asserted that the site is regularly waterlogged and at risk of flooding; the risk of flooding at Clough Dike, Fox Glen and Manchester Road being exacerbated by the development; pollution risks to Clough Dike and Fox Glen and impacts from the proposed drainage outfall; impacts arising from surface water run-off; flooding issues associated with the Site's contribution as a soakaway for runoff from surrounding fields; relevance of underground mine workings; and future maintenance of SuDS elements (all at section 4.9 of Mr Harvey's PoE CD6.22a)

<sup>94</sup> CD 6.15a

<sup>95</sup> CD 5.24 at 26 and 27

housing crisis. The Council's dismissal of the importance of affordable housing in this case is symptomatic and has likely contributed to the current situation. It is also a product at least in part, of no up to date plan. The delivery of all affordable housing is a benefit and the policy is the means of securing that benefit for real households in real need<sup>96</sup>.

- Employment, local spending and associated NHB and council tax are all material benefits of substantial weight overall and unrelated to the land supply position.
- The provision of open space available for existing residents goes beyond policy by some three fold. This is not mitigation and is quite different from a walk in Fox Glen. It is to be given substantial weight.
- The biodiversity improvements are + 50% for habitats and + 1000% for hedges. To suggest that this is of no consequence as the site is relatively barren ecologically is missing the point that these are real positive benefits of a measurable nature that go well beyond mitigation.
- SUDs- whilst of more moderate benefit the outcome will assist in addressing the very fears that locals have about the site's effects on downstream flooding by enhancing and controlling the water run-off.
- Relieving pressure on the Green Belt. Whilst the outcome of the next plan is not certain, all indications are that there will have to be Green Belt release to meet development needs. Apart from LR5 land and the existing developed areas of the city, with its pockets of greenfield land much of which is used for recreational purpose, everywhere else is Green Belt. The Green Belt is drawn tightly. Development on non Green Belt land such as this will consequently reduce pressure on the Green Belt, at least to the scale of this development. Indeed, to not develop this site in those circumstances would be to have dismissed it as a reasonable alternative in claiming there are exceptional circumstances for Green Belt release elsewhere<sup>97</sup>; in effect that it is so

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<sup>96</sup> CD 5.38 at 13.101, 13.102 and 13.111 as well as CD 5.39 at 72

<sup>97</sup> NPPF 137

important not to develop this site as to amount to exceptional circumstances to take other land out of the Green Belt, for other local people to feel strongly about, somewhere else in the City.

70 For all of these reasons, the Appellant is clear that the tilted balance is engaged and the adverse impacts of developing this site do not outweigh the harms. The Appellant respectfully asks that you grant permission for the development.

Richard Sagar

Walker Morris LLP

29 June 2021